

UNITED STATES DISTRICT COURT  
DISTRICT OF MAINE

|                                |   |                   |
|--------------------------------|---|-------------------|
| DAVID J. WIDI, JR.,            | ) |                   |
|                                | ) |                   |
| Plaintiff,                     | ) |                   |
|                                | ) |                   |
| v.                             | ) | 1:11-cv-00113-JAW |
|                                | ) |                   |
| JUSTICE, U.S. DEPT OF, et al., | ) |                   |
|                                | ) |                   |
| Defendants.                    | ) |                   |

**ORDER OVERRULING OBJECTION TO ORDERS OF THE MAGISTRATE  
JUDGE AND CORRECTING FOOTNOTE**

On November 16, 2012, the Court issued an Order on Request for Leave to Amend. *Order on Request for Leave to Amend* (ECF No. 93). In the last paragraph of Footnote 1 of that Order, the Court concluded that the Second Amended Complaint (ECF No. 34) was operative. This conclusion was wrong; the Amended Complaint (ECF No. 19) is the operative complaint in this case.

Rule 15(a)(1) permits a party to amend its pleading once as a matter of course within a specified timeframe. *See* FED. R. CIV. P. 15(a)(1). Since Mr. Widi has already amended his pleading once by filing the Amended Complaint, any further amendments would require Mr. Widi to obtain either the opposing party's written consent or the court's leave. *See United States ex rel. Poteet v. Bahler Medical, Inc.*, 619 F.3d 104, 116 (1st Cir. 2010) ("A party may amend its complaint more than once 'only with the opposing party's written consent or the court's leave'") (quoting FED. R. CIV. P. 15(a)(2)).

In her April 16, 2012 Orders on Motions, the Magistrate Judge correctly noted that the Second Amended Complaint did not become operative upon filing, and observed that any claims not included in the Amended Complaint “can be addressed in the context of a properly fashioned motion to amend.” *Orders on Motions* at 3 (ECF No. 61). Mr. Widi objected to the Magistrate Judge’s Orders, insisting that the Court order service of additional defendants and asking that the Court “at the very least allow Mr. Widi to amend the complaint to include these defendants in the interests of justice.” *Objection to Magistrate’s Orders In re: Doc. Nos. 45 and 55* at 4 (ECF No. 64). The Court overrules Mr. Widi’s objections.

If Mr. Widi wishes to move for leave to amend the Amended Complaint, he may do so in accordance with the Court’s Order on Request for Leave to Amend (ECF No. 93). The Court has already extended the deadline for Mr. Widi to file a motion for leave to amend, if he chooses to do so, to December 28, 2012. *Order* (ECF No. 97). If Mr. Widi fails to file a timely motion to amend, the Court places him on notice that the Court will strike his Second Amended Complaint from the docket.

The Court OVERRULES the Plaintiff David J. Widi, Jr.’s Objection to Magistrate’s Orders In Re: Doc. Nos. 45 and 55 (ECF No. 64). The Court STRIKES the last paragraph of Footnote 1 of its Order on Request for Leave to Amend (ECF No. 93).

SO ORDERED.

/s/ John A. Woodcock, Jr.  
JOHN A. WOODCOCK, JR.  
CHIEF UNITED STATES DISTRICT JUDGE

Dated this 4th day of December, 2012